IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

WEDNESDAY, THE 13TH JUNE 2007 / 23RD JYAISHTA 1929

MFA.No. 325 of 2000

OPMV.922/1996 of MOTOR ACCIDENT CLAIMS TRIBUNAL, TIRUR
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APPELLANT/PETITIONER:

KOLAMBIL SADIKALI, S/O KUNHAHAMMED,
(MINOR) AGED 12 YEARS, REP. BY FATHER
GUARDIAN KOLAMBIL KUNHAHAMMED,
S/O SAIDALI, AGED 43 YEARS, PALACHIRAMAD,
PERUMANNA AMSOM AND KLARI DESOM,
TIRUR TALUK, MALAPPURAM DISTRICT.

BY ADV. SRI.P.CHADRASEKHAR

RESPONDENTS/RESPONDENTS:

1. C.AYISHU, CHEETTAPURATH HOUSE,
   P.O.KURUMBATHUR, TIRUR TALUK,
   MALAPPURAM DIST (OWNER OF JEEP KL-10/A 9315).

2. THOTTUNGAL MOHAMMED, S/O KUNHIMARAKKAR,
   AGED 35 YEARS, MUTHUTHALA, PATTAMBI,
   PALAGHAT DIST (DRIVER OF JEEP KL-10/A 9315
   DL NO.1389/83/MT; BADGE NO.1454/86/MT).

3. UNITED INDUA INSURANCE CO. LTD., III FLOOR,
   24-RATHAN BAZAR, MADRAS - 600 003.
   (INSURER OF JEEP KL-10/a 9315, INSURANCE
   POLICY NO.010803/304/31/01/11/03741/93/INSURANCE
   CERTIFICATE NO.010803/304/31/01/21/3/0113/93).

4. USMAN, ACHUDHA NIVAS, P.O. PUNNATHALA,
   MALAPPURAM DISTRICT.

R3 BY ADV. SMT.P.A.REZIYA

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD
ON 13/06/2007, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

J.B.Koshy & K.P.Balachandran, JJ.

M.F.A.No. 325 of 2000

JUDGMENT

Koshy, J.

An eight year old boy met with an accident due to the negligence of the second respondent driver of a jeep, which was insured by the third respondent Insurance Company. He suffered extensive injuries in the accident, which are as follows: crush injury left leg with total dida-gloving with fracture of both bones of left leg. Exhibits A4 to A7 would prove that skin grafting was also done. The accident occurred on 21.10.1993. The injured boy was examined by the Tribunal on 10.6.1995. The Tribunal noticed that there was huge swelling on his left leg. That was two years after the accident. He was treated in several hospitals and for long time. He was given P.O.P. Cast. The doctor, who treated him in the Medical College Hospital, Kozhikode, certified that he has 20% disability. We find that the Tribunal reduced it to

10% without any valid reason. The Tribunal noticed that he may require future treatment. The Tribunal has taken Rs.1,000/- as the notional monthly income. In 1995 the second schedule was framed. As per the second schedule, Rs.15,000/- per annum was fixed for children and non earning persons. Therefore, we see that Rs.12,000/- fixed as the notional income per annum requires no change. 15 was taken as the multiplier, taking the guidelines from the second schedule and the Tribunal granted only Rs.18,000/- for disability, assessing disability at 10%, instead of 20% disability certified by the doctor. Relying on the medical certificate issued by a competent doctor, we are of the opinion that Rs.36,000/- should have been awarded as compensation for disability. Hence, he is entitled to an additional amount of Rs.18,000/- on that count. The total medical bills produced were for Rs.2,459/-. He was treated in various hospitals. The Tribunal granted only Rs.2,500/-, even though the entire treatment expenses will not

be reflected in the bills. The boy was only eight years old. For by-standers expenses and extra nourishment only Rs.1,500/- was granted. No amount was granted for future medical expenses. Therefore, we are of the opinion that altogether an amount of Rs.2,000/- should have been awarded for future medical expenses and by-standers expenses. Thus, the appellant/claimant will be entitled to an additional compensation of Rs.20,000/-. The above amount shall be deposited by the third respondent Insurance Company with 8% interest per annum from the date of application till date of its deposit. On deposit of the amount, the appellant is allowed to withdraw the same.

The appeal is allowed in part.

(J.B.Koshy, Judge)

13th June, 2007

(K.P.Balachandran, Judge)

tkv

J.B.Koshy & K.P.Balachandran, JJ.

M.F.A.No.325 of 2000

JUDGMENT

13th June, 2007